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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/765,026      | 01/13/1997  | MARTINE BARKATS      | ST94051-US          | 5544             |

22852 7590 05/16/2005

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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|-------------------------------|---------------------------|---|-----------------------------------|
| APPLICATION NO.<br>08/765,026 | FILING DATE<br>01/13/1997 | FIRST NAMED INVENTOR:<br>Barkats et al. | ATTORNEY DOCKET NO.<br>ST94501-US |
|-------------------------------|---------------------------|---|-----------------------------------|

EXAMINER

David A. Lambertson

|          |        |
|----------|--------|
| ART UNIT | PAPER  |
| 1636     | 051005 |

DATE MAILED:

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Commissioner of Patents

The following communication is a response to the amendment filed February 25, 2005. The amendment is non-responsive because the amendment shifts the invention. Previously, the claims were drawn to a method of administering a replication defective, recombinant adenovirus to a target cell. The claims as amended now read on a method of implanting an extracellular matrix and human cells into the central nervous system, and contain distinct method steps from the previously claimed invention. MPEP § 706.07(h) clearly states that, "Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicant cannot switch inventions). See 37 CFR 1.145. Any newly submitted claims that are directed to an invention that is independent and distinct from the invention previously claimed will be withdrawn from consideration and not entered. See subsection VI below." As such, all claims are now withdrawn as being drawn to a non-elected invention by original presentation.

Because there are no claims pending that are sufficient for examination based on the originally elected invention, the amendment filed February 25, 2005 is considered non-responsive to the previous Office Action.

Applicant is given a **TIME PERIOD** of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121, effective, March 21, 2001, in order to avoid abandonment.

**EXTENSIONS OF THIS TIME MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication should be directed to Examiner **David A. Lambertson**, Art Unit 1636, whose telephone number is (571) 272-0771.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0196.

David A. Lambertson, Ph.D.  
Examiner, Art Unit 1636

  
**JAMES KETTER**  
**PRIMARY EXAMINER**